



January 19, 2001

SENATE BILL No. 298

DIGEST OF SB 298 (Updated January 17, 2001 12:03 PM - DI 51)

Citations Affected: IC 31-31; IC 33-4; IC 33-5; IC 33-5.1; IC 33-8; IC 33-13; IC 33-19; noncode.

Synopsis: Courts and court officers. Requires the state to pay the full salary of 17 full-time juvenile magistrates who are currently paid partly from state funds and partly from county funds. Establishes a superior court in Howard County and in DeKalb County. Eliminates the small claims referee in the DeKalb superior court. Allows the judges of the LaPorte circuit court and the LaPorte superior courts by majority vote to appoint one magistrate to serve the courts. Authorizes Henry superior court No. 2 to appoint a small claims referee. Corrects a technical error to bring the law governing the Elkhart circuit court into conformity with provisions of the law governing the Elkhart superior court that state the number of magistrates jointly appointed by the Elkhart circuit and superior courts. Establishes a late payment fee for the late payment of fines, civil penalties, and costs. Makes related changes.

Effective: July 1, 2001.

**Bray, Alexa, Bowser, Meeks C,
Meeks R**

January 11, 2001, read first time and referred to Committee on Judiciary.
January 18, 2001, amended, reported favorably — Do Pass.

SB 298—LS 7738/DI 51+



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January 19, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE BILL No. 298

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 33-4-1-20.1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 20.1. (a) The judges of
3 the Elkhart circuit and superior courts may jointly appoint ~~one (1)~~
4 **three (3) full-time magistrate magistrates** under IC 33-4-7 to serve the
5 circuit and superior courts.
6 (b) ~~The A~~ **magistrate appointed under this section** continues in
7 office until removed by the judges of the circuit and superior courts.
8 SECTION 2. IC 33-4-1-41.1 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 41.1. (a) The judges of
10 the Johnson circuit and superior courts may jointly appoint one (1)
11 full-time magistrate to serve both the circuit and superior courts. **The**
12 **magistrate continues in office until removed by the judges of the**
13 **Johnson circuit and superior courts.**
14 (b) **In addition to the magistrate appointed under subsection (a),**
15 **the judge of the Johnson circuit court may appoint one (1) full-time**
16 **magistrate under IC 33-4-7.** The magistrate continues in office until
17 removed by the ~~judges~~ **judge** of the Johnson circuit ~~and superior~~

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~~courts: court.~~

SECTION 3. IC 33-4-1-46, AS AMENDED BY P.L.196-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 46. (a) The county of LaPorte shall constitute the Thirty-second Judicial Circuit.

(b) The judges of the LaPorte circuit court and LaPorte superior court No. 4 may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts.

(c) The magistrate continues in office until removed by the judges of the LaPorte circuit court and LaPorte superior court No. 4.

(d) The judges of the LaPorte circuit court and the LaPorte superior courts may by majority vote jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts. The magistrate continues in office until removed by a majority vote of the judges of the LaPorte circuit and superior courts.

SECTION 4. IC 33-4-1-64 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 64. (a) The county of Porter shall constitute the sixty-seventh judicial circuit.

(b) The judge of the Porter circuit court may appoint one (1) full-time magistrate under IC 33-4-7. The magistrate continues in office until removed by the judge of the Porter circuit court.

SECTION 5. IC 33-4-1-84 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 84. (a) The county of Vigo shall constitute the forty-third judicial circuit.

(b) The judges of the Vigo circuit and superior courts may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts. A magistrate appointed under this section continues in office until removed by the judges of the circuit and superior courts.

SECTION 6. IC 33-4-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. ~~Except as provided in section 11 of this chapter,~~ The state shall pay the salary of a magistrate. A county located in the circuit that the magistrate serves may supplement the magistrate's salary.

SECTION 7. IC 33-5-5.1-8, AS AMENDED BY P.L.196-1999, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) The court may appoint such number of probate commissioners, juvenile referees, bailiffs, court reporters, probation officers, and such other personnel, including but not limited to an administrative officer, as shall in the opinion of the court be necessary to facilitate and transact the business of the court. ~~In addition~~



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1 ~~to the personnel authorized under this subsection and IC 31-31-3, The~~
 2 judges of the Allen superior court-civil division may jointly appoint not
 3 more than four (4) full-time magistrates under IC 33-4-7 to serve the
 4 Allen superior court-civil division. The judges of the Allen superior
 5 court-civil division may jointly assign any such magistrates the duties
 6 and powers of a probate commissioner. ~~In addition to the personnel~~
 7 ~~authorized under this subsection and IC 31-31-3, The judges of the~~
 8 **Allen superior court-family relations division may jointly appoint**
 9 **three (3) full-time magistrates under IC 33-4-7.** The judge of the
 10 Allen superior court-criminal division may jointly appoint not more
 11 than three (3) full-time magistrates under IC 33-4-7 to serve the Allen
 12 superior court-criminal division. Any such magistrate serves at the
 13 pleasure of, and continues in office until jointly removed by, the judges
 14 of the division that appointed the magistrate. All appointments made
 15 under this subsection shall be made without regard to the political
 16 affiliation of the appointees. The salaries of the above personnel shall
 17 be fixed and paid as provided by law. If the salaries of any of the above
 18 personnel are not provided by law, the amount and time of payment of
 19 such salaries shall be fixed by the court, to be paid out of the county
 20 treasury by the county auditor, upon the order of the court, and be
 21 entered of record. The officers and persons so appointed shall perform
 22 such duties as are prescribed by the court. Any such administrative
 23 officer appointed by the court shall operate under the jurisdiction of the
 24 chief judge and shall serve at the pleasure of the chief judge. Any such
 25 probate commissioners, magistrates, juvenile referees, bailiffs, court
 26 reporters, probation officers, and other personnel appointed by the
 27 court shall serve at the pleasure of the court.

28 (b) Any probate commissioner so appointed by the court may be
 29 vested by said court with all suitable powers for the handling and
 30 management of the probate and guardianship matters of the court,
 31 including the fixing of all bonds, the auditing of accounts of estates and
 32 guardianships and trusts, acceptance of reports, accounts, and
 33 settlements filed in said court, the appointment of personal
 34 representatives, guardians, and trustees, the probating of wills, the
 35 taking and hearing of evidence on or concerning such matters, or any
 36 other probate, guardianship, or trust matters in litigation before such
 37 court, the enforcement of court rules and regulations, the making of
 38 reports to the court concerning his doings in the above premises,
 39 including the taking and hearing of evidence together with such
 40 commissioner's findings and conclusions regarding the same, all of
 41 such matters, nevertheless, to be under the final jurisdiction and
 42 decision of the judges of said court.



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(c) Any juvenile referee so appointed by the court may be vested by said court with all suitable powers for the handling and management of the juvenile matters of the court, including the fixing of bonds, the taking and hearing of evidence on or concerning any juvenile matters in litigation before the court, the enforcement of court rules and regulations, the making of reports to the court concerning his doings in the above premises, all of such matters, nevertheless, to be under final jurisdiction and decision of the judges of said court.

(d) For any and all of the foregoing purposes, any probate commissioner and juvenile referee shall have the power to summon witnesses to testify before the said commissioner and juvenile referee, to administer oaths and take acknowledgments in connection with and in furtherance of said duties and powers.

(e) The powers of a magistrate appointed under this section include the powers provided in IC 33-4-7 and the power to enter a final order or judgment in any proceeding involving matters specified in IC 33-5-2-4 (jurisdiction of small claims docket) or IC 34-26-2 (protective orders to prevent abuse).

SECTION 8. IC 33-5-10.8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. There is established a court of record to be known as the DeKalb superior court (referred to as "the court" in this chapter). The court may have a seal containing the words "DeKalb Superior Court No. 1, DeKalb County, Indiana" and **"DeKalb Superior Court No. 2, DeKalb County, Indiana"**. DeKalb County comprises the judicial district of the court.

SECTION 9. IC 33-5-10.8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) The court has ~~one~~ **(+) judge two (2) judges** who shall be elected at the general election every six (6) years in DeKalb County. ~~His~~ **A judge's** term begins January 1 following ~~his the judge's~~ election and ends December 31 following the election of ~~his the judge's~~ successor.

(b) To be eligible to hold office as judge of the court, a person must:

- (1) be a resident of DeKalb County;
- (2) be under seventy (70) years of age at the time ~~he takes of~~ **taking** office; and
- (3) be admitted to the bar of Indiana.

SECTION 10. IC 33-5-10.8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. ~~The~~ **Each** judge of the court has the same powers relating to the conduct of the business of the court as the judge of the DeKalb circuit court. ~~The~~ **Each** judge of the court also may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.



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1 SECTION 11. IC 33-5-10.8-9 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. ~~The Each~~ judge of
 3 the court shall appoint a bailiff and an official court reporter for the
 4 court; their salaries shall be fixed in the same manner as the salaries of
 5 the bailiff and official court reporter for the DeKalb circuit court. Their
 6 salaries shall be paid monthly out of the treasury of DeKalb County as
 7 provided by law.

8 SECTION 12. IC 33-5-10.8-10 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. The clerk of the
 10 court, under the direction of the ~~judge~~ **judges** of the court, shall provide
 11 order books, judgment dockets, execution dockets, fee books, and other
 12 books for the court, which shall be kept separately from the books and
 13 papers of other courts.

14 SECTION 13. IC 33-5-10.8-11 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. The court shall hold
 16 its sessions in the DeKalb County courthouse in Auburn, Indiana, or in
 17 such other places in the county as the board of county commissioners
 18 of DeKalb County may provide. The board of county commissioners
 19 shall provide and maintain a suitable ~~courtroom~~ **courtrooms** and other
 20 rooms and facilities, including furniture and equipment, as may be
 21 necessary. The county council of DeKalb County shall appropriate
 22 sufficient funds for the provision and maintenance of such rooms and
 23 facilities.

24 SECTION 14. IC 33-5-10.8-14 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14. The judge of the
 26 DeKalb circuit court may, with the consent of ~~the a~~ judge of the court
 27 and of the parties or their counsel, transfer any action or proceeding
 28 from the circuit court to the court. ~~The A~~ judge of the court may, with
 29 consent of the judge of the circuit court and of the parties or their
 30 counsel, transfer any action or proceeding from the court to the circuit
 31 court.

32 SECTION 15. IC 33-5-10.8-15 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 15. The judge of the
 34 DeKalb circuit court may, with the consent of ~~the a~~ judge of the court
 35 and of the parties or their counsel, sit as a judge of the court in any
 36 matter as if ~~he was the judge were~~ an elected judge of the court. ~~The~~
 37 **A** judge of the court may, with consent of the judge of the circuit court
 38 and of the parties or their counsel, sit as a judge of the circuit court in
 39 any matter as if ~~he was the judge were~~ an elected judge of the circuit
 40 court.

41 SECTION 16. IC 33-5-10.8-17 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 17. (a) ~~The Each~~



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1 superior court has a standard small claims and misdemeanor division.

2 (b) If the county executive establishes the position of small claims
3 referee to serve the court, the judge of the court may appoint a
4 part-time small claims referee under IC 33-5-2.5 to assist the court in
5 the exercise of its small claims jurisdiction.

6 (c) The small claims referee is entitled to reasonable compensation
7 not exceeding twenty thousand dollars (\$20,000) a year as
8 recommended by the judge of the court to be paid by the county after
9 the salary is approved by the county fiscal body. The state shall pay
10 fifty percent (50%) of the salary set under this subsection and the
11 county shall pay the remainder of the salary.

12 (d) (b) The county executive shall provide and maintain a suitable
13 courtroom and facilities for the use of the small claims referee,
14 including necessary furniture and equipment.

15 (e) (c) The court shall employ administrative staff necessary to
16 support the functions of the small claims referee.

17 (f) (d) The county fiscal body shall appropriate sufficient funds for
18 the provision of staff and facilities required under this section.

19 SECTION 17. IC 33-5-13.1-16, AS AMENDED BY P.L.196-1999,
20 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2001]: Sec. 16. (a) The judges of the Elkhart circuit and
22 superior courts may jointly appoint ~~two (2)~~ **three (3)** full-time
23 magistrates under IC 33-4-7.

24 (b) The magistrate continues in office until removed by the judges
25 of the circuit and superior courts.

26 SECTION 18. IC 33-5-20.1-1 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. There shall be and
28 is hereby established a Superior Court in Howard County, Indiana,
29 which shall consist of ~~two (2)~~ **three (3)** judges who shall hold their
30 offices for six (6) years and until their successor shall have been
31 elected and qualified.

32 SECTION 19. IC 33-5-21-5 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) The courts have
34 the same jurisdiction as the Henry circuit court.

35 (b) Henry superior court No. 2 has a standard small claims and
36 misdemeanor division.

37 (c) If the county executive establishes the position of small
38 claims referee to serve the court, the judge of the Henry superior
39 court No. 2 may appoint a part-time small claims referee under
40 IC 33-5-2.5 to assist the court in the exercise of its small claims
41 jurisdiction.

42 (d) This subsection applies if a small claims referee is appointed



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under subsection (c). The county shall pay the salary of a part-time small claims court referee appointed under this subsection. The county executive shall provide and maintain a suitable courtroom and facilities for the use of the small claims referee, including necessary furniture and equipment. The court shall employ administrative staff necessary to support the functions of the small claims referee. The county fiscal body shall appropriate sufficient funds for the provision of staff and facilities required under this subsection.

SECTION 20. IC 33-5-29.5-7.1, AS AMENDED BY P.L.196-1999, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7.1. (a) The judges of the criminal division may appoint two (2) full-time magistrates under IC 33-4-7 to serve the criminal division. A magistrate appointed under this subsection continues in office until removed by the judges of the criminal division.

(b) The judges of the civil division may appoint two (2) full-time magistrates under IC 33-4-7 to serve the civil division. A magistrate appointed under this subsection continues in office until removed by the judges of the civil division.

(c) The judge of the juvenile division may appoint three (3) full-time magistrates under IC 33-4-7. A magistrate appointed under this subsection continues in office until removed by the judge of the juvenile division.

(d) The chief judge of the superior court may appoint one (1) full-time magistrate under IC 33-4-7. A magistrate appointed under this subsection continues in office until removed by the chief judge.

SECTION 21. IC 33-5-29.5-8, AS AMENDED BY P.L.1-1997, SECTION 125, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) The senior judge of each division may appoint the number of bailiffs, court reporters, probation officers, and other personnel as in the opinion of the senior judge is necessary to judicially and efficiently facilitate and transact the business of the division. All appointments shall be made without regard to the political affiliation of the appointees. The salaries of the court personnel shall be fixed and paid as provided by law. The officers and persons appointed shall:

- (1) perform the duties prescribed by the senior judge of each respective division; and
- (2) serve at the pleasure of the senior judge.

(b) The court shall appoint an administrative officer who shall have the duties as the court shall determine necessary to ensure the efficient



operation of the court. The court may appoint the number of deputy administrative officers as the court considers necessary to facilitate and transact the business of the court. Any appointment of an administrative officer or deputy administrative officer shall be made without regard to the political affiliation of the appointees. The salaries of the administrative officer and any deputy administrative officer shall be fixed by the court, to be paid out of the county treasury by the county auditor, upon the order of the court, and entered of record. Any administrative officer or deputy administrative officer appointed by the court shall:

(1) operate under the jurisdiction of the chief judge; and

(2) serve at the pleasure of the chief judge.

(c) The court may appoint part-time juvenile referees ~~and magistrates~~ as provided by IC 31-31-3.

(d) The court may appoint the number of probate commissioners provided for by IC 29-2-2. The probate commissioners shall be vested with the powers and duties provided by IC 29.

SECTION 22. IC 33-5-31.1-12, AS AMENDED BY P.L.196-1999, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) The judges of the court may, by a vote of the majority of the judges, appoint one (1) full-time magistrate under IC 33-4-7.

(b) The judges of the LaPorte circuit court and LaPorte superior court No. 4 may jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts.

(c) The judges of the LaPorte circuit court and the LaPorte superior courts may by majority vote jointly appoint one (1) full-time magistrate under IC 33-4-7 to serve the circuit and superior courts.

(d) The magistrate appointed under subsection (a) continues in office until removed by the vote of a majority of the judges of the court.

~~(d)~~ (e) The magistrate appointed under subsection (b) continues in office until removed by the judges of the LaPorte circuit court and LaPorte superior court No. 4.

(f) The magistrate appointed under subsection (c) continues in office until removed by a majority vote of the judges of the LaPorte circuit and superior courts.

SECTION 23. IC 33-5-43-1.1, AS AMENDED BY P.L.196-1999, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1.1. (a) The judges of the Vanderburgh superior court may jointly appoint not more than ~~four (4)~~ **five (5)** full-time magistrates under IC 33-4-7.



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1 (b) A magistrate continues in office until jointly removed by the
2 judges.

3 SECTION 24. IC 33-5-44.1-8 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. **(a)** The court may
5 appoint such number of commissioners, probate commissioners,
6 referees, juvenile referees, bailiffs, court reporters, probation officers,
7 and such other personnel, including but not limited to an administrative
8 officer, as shall in the opinion of the court be necessary to facilitate and
9 transact the business of the court. The salaries of the personnel shall be
10 fixed and paid as provided by law. However, if the salaries of any of
11 the personnel are not provided by law, the amount and time of payment
12 of such salaries shall be fixed by the court, to be paid out of the county
13 treasury by the county auditor upon the order of the court, and be
14 entered on record. The officers and persons so appointed shall perform
15 such duties as are prescribed by the court. Any such commissioners,
16 probate commissioners, referees, juvenile referees, probation officers,
17 and other personnel appointed by the court shall serve at the pleasure
18 of the court.

19 **(b)** Any probate commissioner so appointed by the court may be
20 vested by said court with all suitable powers for the handling and
21 management of the probate and guardianship matters of the court,
22 including the fixing of all bonds, the auditing of accounts of estates and
23 guardianships and trusts, acceptance of reports, accounts and
24 settlements filed in said court, the appointment of personal
25 representatives, guardians and trustees, the probating of wills, the
26 taking and hearing of evidence on or concerning such matters, or any
27 other probate, guardianship or trust matters in litigation before such
28 court, the enforcement of court rules and regulations, and making of
29 reports to the court including the taking and hearing of evidence
30 together with such commissioner's findings and conclusions regarding
31 the same, all of such matters, nevertheless, to be under the final
32 jurisdiction and decision of the judges of said court.

33 **(c)** Any juvenile referee appointed by the court may be vested by
34 said court with all suitable powers for the handling and management of
35 the juvenile matters of the court, including the fixing of bonds, the
36 taking and hearing of evidence on or concerning any juvenile matters
37 in litigation before the court, the enforcement of court rules and
38 regulations, the making of reports to the court concerning his doings in
39 the above premises, all of such matters, nevertheless, to be under final
40 jurisdiction and decision of the judges of said court.

41 **(d)** For any and all the foregoing purposes, any probate
42 commissioner and juvenile referee shall have the power to summon

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witnesses to testify before the said commissioner and juvenile referee, to administer oaths and take acknowledgments in connection with and in furtherance of said duties and powers.

(e) The judges of the Vigo circuit and superior courts may jointly appoint one (1) full-time magistrate to serve the circuit and superior courts. The magistrate continues in office until removed by the judges of the Vigo circuit and superior courts.

SECTION 25. IC 33-5.1-2-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 28. (a) In addition to the magistrates appointed under sections 26 and 27 of this chapter, the judge of the juvenile division of the superior court may appoint four (4) full-time magistrates under IC 33-4-7.**

(b) The magistrates continue in office until removed by the judge of the juvenile division.

SECTION 26. IC 33-8-2-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: ~~Sec. 25. In addition to any appointments made by the judge of the St. Joseph probate court under IC 31-31-3, The judge of the St. Joseph probate court may appoint one~~ **(+) two (2) full-time magistrate magistrates under IC 33-4-7. The A magistrate appointed under this section may exercise:**

(1) probate jurisdiction under IC 33-8-2-9; and

(2) juvenile jurisdiction under IC 33-8-2-10;

and continues in office until removed by the judge.

SECTION 27. IC 33-19-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars (\$120).**

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-19-6:

(1) A document fee.

(2) A marijuana eradication program fee.

(3) An alcohol and drug services program user fee.

(4) A law enforcement continuing education program fee.

(5) A drug abuse, prosecution, interdiction, and correction fee.

(6) An alcohol and drug countermeasures fee.

(7) A child abuse prevention fee.

(8) A domestic violence prevention and treatment fee.

(9) A highway work zone fee.

(10) A deferred prosecution fee (IC 33-19-6-16.2).



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(11) A late payment fee (IC 33-19-6-18).

(c) Instead of the criminal costs fee prescribed by this section, the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-14-1-7 requires payment of those fees by the accused person. The pretrial diversion program fee is:

- (1) an initial user's fee of fifty dollars (\$50); and
- (2) a monthly user's fee of ten dollars (\$10) for each month that the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-19-8:

- (1) The pretrial diversion fee.
- (2) The marijuana eradication program fee.
- (3) The alcohol and drug services program user fee.
- (4) The law enforcement continuing education program fee.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

- (1) First, the clerk shall apply the partial payment to general court costs.
- (2) Second, if there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the partial payment for deposit in the appropriate county user fee fund.
- (3) Third, if there is money remaining after distribution under subdivision (2), the clerk shall distribute the partial payment for deposit in the state user fee fund.
- (4) Fourth, if there is money remaining after distribution under subdivision (3), the clerk shall distribute the partial payment to any other applicable user fee fund.
- (5) Fifth, if there is money remaining after distribution under subdivision (4), the clerk shall apply the partial payment to any outstanding fines owed by the defendant.

SECTION 28. IC 33-19-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

- (1) for a violation constituting an infraction; or
- (2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);



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the clerk shall collect from the defendant an infraction or ordinance violation costs fee of seventy dollars (\$70).

(b) In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-19-6:

- (1) A document fee.
- (2) An alcohol and drug services program user fee.
- (3) A law enforcement continuing education program fee.
- (4) An alcohol and drug countermeasures fee.
- (5) A highway work zone fee.
- (6) A deferred prosecution fee (IC 33-19-6-16.2).

(7) A late payment fee (IC 33-19-6-18).

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the user fee fund established under IC 33-19-8:

- (1) The alcohol and drug services program user fee.
- (2) The law enforcement continuing education program fee.
- (3) The deferral program fee.

(d) The defendant is not liable for any ordinance violation costs fee in an action in which:

- (1) the defendant was charged with an ordinance violation subject to IC 33-6-3;
- (2) the defendant denied the violation under IC 33-6-3-2;
- (3) proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal); and
- (4) the defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

- (1) an initial user's fee not to exceed fifty-two dollars (\$52); and
- (2) a monthly user's fee not to exceed ten dollars (\$10) for each month the person remains in the deferral program.

SECTION 29. IC 33-19-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) For each action filed under:

- (1) IC 31-34 or IC 31-37 (delinquent children and children in

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need of services); or

(2) IC 31-14 (paternity);

the clerk shall collect a juvenile costs fee of one hundred twenty dollars (\$120).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:

(1) A document fee.

(2) A marijuana eradication program fee.

(3) An alcohol and drug services program user fee.

(4) A law enforcement continuing education program fee.

(5) An alcohol and drug countermeasures fee.

(6) A late payment fee (IC 33-19-6-18).

(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-19-8:

(1) The marijuana eradication program fee.

(2) The alcohol and drug services program user fee.

(3) The law enforcement continuing education program fee.

SECTION 30. IC 33-19-6-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 18. (a) This section applies in each action in which a defendant:**

(1) is found, in a court that has a local court rule imposing a late payment fee under this section, to have:

(A) committed a crime;

(B) violated a statute defining an infraction;

(C) violated an ordinance of a municipal corporation; or

(D) committed a delinquent act;

(2) is required to pay:

(A) court costs, including fees;

(B) a fine; or

(C) a civil penalty;

(3) is not determined by the court imposing the court costs, fine, or civil penalty to be indigent; and

(4) fails to pay to the clerk the costs, fine, or civil penalty in full before the later of the following:

(A) The end of the business day on which the court enters the conviction or judgment.

(B) The end of the time period specified in a payment schedule set for the payment of court costs, fines, and civil



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1 penalties under rules adopted for the operation of the
2 court.

3 (b) A court may adopt a local rule to impose a late payment fee
4 under this section on defendants described in subsection (a).

5 (c) Subject to subsection (d), the clerk of a court that adopts a
6 local rule imposing a late payment fee under this section shall
7 collect a late payment fee of twenty-five dollars (\$25) from a
8 defendant described in subsection (a).

9 (d) Notwithstanding IC 33-19-2-2, a court may suspend a late
10 payment fee if the court finds that the defendant has demonstrated
11 good cause for failure to make a timely payment of court costs, a
12 fine, or a civil penalty.

13 SECTION 31. IC 33-19-7-1 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) The clerk of a
15 circuit court shall semiannually distribute to the auditor of state as the
16 state share for deposit in the state general fund seventy percent (70%)
17 of the amount of fees collected under the following:

- 18 (1) IC 33-19-5-1(a) (criminal costs fees).
- 19 (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- 20 (3) IC 33-19-5-3(a) (juvenile costs fees).
- 21 (4) IC 33-19-5-4(a) (civil costs fees).
- 22 (5) IC 33-19-5-5(a) (small claims costs fees).
- 23 (6) IC 33-19-5-6(a) (probate costs fees).
- 24 (7) IC 33-19-6-16.2 (deferred prosecution fees).

25 (b) The clerk of a circuit court shall semiannually distribute to the
26 auditor of state for deposit in the state user fee fund established under
27 IC 33-19-9-2 the following:

- 28 (1) Twenty-five percent (25%) of the drug abuse, prosecution,
29 interdiction, and correction fees collected under
30 IC 33-19-5-1(b)(5).
- 31 (2) Twenty-five percent (25%) of the alcohol and drug
32 countermeasures fees collected under IC 33-19-5-1(b)(6),
33 IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).
- 34 (3) Fifty percent (50%) of the child abuse prevention fees
35 collected under IC 33-19-5-1(b)(7).
- 36 (4) One hundred percent (100%) of the domestic violence
37 prevention and treatment fees collected under IC 33-19-5-1(b)(8).
- 38 (5) One hundred percent (100%) of the highway work zone fees
39 collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).
- 40 (6) One hundred percent (100%) of the safe schools fee collected
41 under IC 33-19-6-16.3.

42 (c) The clerk of a circuit court shall monthly distribute to the county

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auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall monthly distribute to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(8). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall monthly distribute to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-19-6-18. The county auditor shall deposit fees distributed by a clerk under this subsection in the county general fund.

SECTION 32. IC 33-19-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The clerk of a city or town court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

(1) IC 33-19-5-1(a) (criminal costs fees).

(2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-19-5-4(a) (civil costs fees).

(4) IC 33-19-5-5 (small claims costs fees).

(5) IC 33-19-6-16.2 (deferred prosecution fees).

(b) Once each month the city or town fiscal officer shall distribute to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

(1) IC 33-19-5-1(a) (criminal costs fees).

(2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-19-5-4(a) (civil costs fees).

(4) IC 33-19-5-5 (small claims costs fees).

(5) IC 33-19-6-16.2 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

(1) IC 33-19-5-1(a) (criminal costs fees).

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(2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-19-5-4(a) (civil costs fees).

(4) IC 33-19-5-5 (small claims costs fees).

(5) IC 33-19-6-16.2 (deferred prosecution fees).

(d) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established under IC 33-19-9 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-19-5-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

(3) One hundred percent (100%) of the highway work zone fees collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).

(4) One hundred percent (100%) of the safe schools fee collected under IC 33-19-6-16.3.

(e) The clerk of a city or town court shall monthly distribute to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-19-5-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(e) The clerk of a city or town court shall monthly distribute to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under IC 33-19-6-18. The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

SECTION 33. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2001]: IC 31-31-3-2; IC 33-4-7-11; IC 33-5-5.1-8.5; IC 33-13-12-8.2.

SECTION 34. [EFFECTIVE JULY 1, 2001] **The following juvenile magistrates appointed under IC 31-31-3-2, before its repeal by this act, compensated under IC 33-4-7-11, before its repeal by this act, and serving on June 30, 2001, continue to serve as magistrates until removed by the judge or judges that the magistrates will serve**



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after the enactment of this act:

(1) Three (3) magistrates serving the Allen superior court, family relations division, continue to serve under the authority of IC 33-5-5.1-8, as amended by this act.

(2) One (1) magistrate serving the Elkhart circuit court continues to serve under the authority of IC 33-4-1-20.1 and IC 33-5-13.1-16, both as amended by this act.

(3) One (1) magistrate serving the Johnson circuit court continues to serve under the authority of IC 33-4-1-41.1, as amended by this act.

(4) Four (4) magistrates serving the Lake superior court, juvenile division, continue to serve under the authority of IC 33-5-29.5-7.1, as amended by this act.

(5) Four (4) magistrates serving the Marion superior court, juvenile division, continue to serve under the authority of IC 33-5.1-2-28, as added by this act.

(6) One (1) magistrate serving the Porter circuit court continues to serve under the authority of IC 33-4-1-64, as amended by this act.

(7) One (1) magistrate serving the St. Joseph probate court continues to serve under the authority of IC 33-8-2-25, as amended by this act.

(8) One (1) magistrate serving the Vanderburgh superior court, juvenile division, continues to serve under the authority of IC 33-5-43-1.1, as amended by this act.

(9) One (1) magistrate serving the Vigo circuit court continues to serve under the authority of IC 33-4-1-84 and IC 33-5-44.1-8, both as amended by this act.

SECTION 35. [EFFECTIVE JULY 1, 2001] (a) The governor shall appoint the initial judge of DeKalb superior court No. 2, as added by this act. The term of the judge appointed by the governor under this subsection ends December 31, 2002. The initial election of the judge of DeKalb superior court No. 2, as added by this act, is the general election to be held November 5, 2002. The person elected takes office January 1, 2003.

(b) The governor shall appoint the initial judge of Howard superior court, as added by this act. The term of the judge appointed by the governor under this subsection ends December 31, 2002. The initial election of the judge of the Howard superior court added by this act is the general election to be held November 5, 2002. The person elected takes office January 1, 2003.

(c) This SECTION expires January 2, 2003.



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SENATE MOTION

Mr. President: I move that Senator Bowser be added as coauthor of Senate Bill 298.

BRAY

SENATE MOTION

Mr. President: I move that Senators Meeks R and Meeks C be added as coauthors of Senate Bill 298.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 298, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 5, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 13. IC 33-5-10.8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. The court shall hold its sessions in the DeKalb County courthouse in Auburn, Indiana, or in such other places in the county as the board of county commissioners of DeKalb County may provide. The board of county commissioners shall provide and maintain a suitable ~~courtroom~~ **courtrooms** and other rooms and facilities, including furniture and equipment, as may be necessary. The county council of DeKalb County shall appropriate sufficient funds for the provision and maintenance of such rooms and facilities."

Page 14, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 31. IC 33-19-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) The clerk of a circuit court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-3(a) (juvenile costs fees).
- (4) IC 33-19-5-4(a) (civil costs fees).
- (5) IC 33-19-5-5(a) (small claims costs fees).
- (6) IC 33-19-5-6(a) (probate costs fees).
- (7) IC 33-19-6-16.2 (deferred prosecution fees).

(b) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established under IC 33-19-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).
- (3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-19-5-1(b)(8).

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(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected under IC33-19-6-16.3.

(c) The clerk of a circuit court shall monthly distribute to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall monthly distribute to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(8). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall monthly distribute to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-19-6-18. The county auditor shall deposit fees distributed by a clerk under this subsection in the county general fund.

SECTION 32. IC 33-19-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The clerk of a city or town court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

(1) IC 33-19-5-1(a) (criminal costs fees).

(2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-19-5-4(a) (civil costs fees).

(4) IC 33-19-5-5 (small claims costs fees).

(5) IC 33-19-6-16.2 (deferred prosecution fees).

(b) Once each month the city or town fiscal officer shall distribute to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

(1) IC 33-19-5-1(a) (criminal costs fees).

(2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-19-5-4(a) (civil costs fees).

(4) IC 33-19-5-5 (small claims costs fees).



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(5) IC 33-19-6-16.2 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-4(a) (civil costs fees).
- (4) IC 33-19-5-5 (small claims costs fees).
- (5) IC 33-19-6-16.2 (deferred prosecution fees).

(d) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established under IC 33-19-9 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-19-5-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).
- (3) One hundred percent (100%) of the highway work zone fees collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).
- (4) One hundred percent (100%) of the safe schools fee collected under IC 33-19-6-16.3.

(e) The clerk of a city or town court shall monthly distribute to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-19-5-1(b)(5).
- (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(e) The clerk of a city or town court shall monthly distribute to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under IC 33-19-6-18. The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund."

Page 15, line 4, delete "DeKalb" and insert "**Howard**".

Page 15, line 5, delete "No. 2".

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Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to SB 298 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 10, Nays 0.

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